

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.223 OF 2016

ORDER:

This Civil Revision Petition, under Section 22 of the Andhra Pradesh Buildings (Lease, Rent and Eviction) Control Act, 1960 (for short 'the Act, 1960'), is filed challenging the order dated 29.09.2015 in R.A. No.28 of 2014 passed by the Additional Chief Judge, City Small Causes Court, Hyderabad, whereby modified the order dated 25.11.2013 in R.C. No.98 of 2012 passed by the Principal Rent Controller, Secunderabad, fixing fair rent at Rs.6,500/- per month for the petition schedule property from the date petition to the petitioner with future enhancement at 10% for every two years on the existing rate of rent.

The respondents-landlord filed an application under Section 4 of the Act, 1960 for fixation of fair rent raising several contentions.

The petitioners-tenant disputed quantum of rent being fetched by the premises that it is not in down town or highly commercial area and the Rent Controller recorded a finding that plinth area is 65 sft., instead of 100 sft.

This court cannot disturb the findings of fact while exercising power under Section 22 of the Act in view of the law declared by this court in **Hindustan Petroleum Corporation Ltd. vs. Dilbahar Singh**¹. Therefore, the finding recorded by the rent controller need not be disturbed.

During hearing, learned counsel for the petitioner would contend that the trial court fixed future enhancement at 10% for

¹ AIR 2014 SC 3708

every two years, but the appellate court modified the order even without appeal or cross-objection by the landlord fixing future enhancement at 10% for every two years. Except the said ground, no other ground is raised.

As seen from the operative portion of the order dated 25.11.2013 in R.C. No.98 of 2012 fixed the future enhancement is at 10% for every two years on the existing rate of rent. The operative portion of the order dated 29.09.2015 in R.A. No.28 of 2014 passed by the appellate court reads as follows:

"In the result, the appeal is allowed in part without costs and the fair rent for the petition schedule property fixed @ Rs.6,000/- per month with future enhancement at 10% for every two years and the appellants are directed to pay the fixed fair rent from the date of the petition to the respondents/ landlords."

As seen from the operative portion of the order dated 29.09.2015 passed by the appellate court, it is evident that the Rent Controller issued the direction of future enhancement at 10% for every two years. Therefore, there is no variation in the percentage of enhancement for future period and the ground urged before this court is not based on any material.

An identical question came up before this court in **Jupudi Parthasarathy v. Kondapali Rajeswari and others²**, wherein it was held that once fair rent is fixed it cannot be revised except if the case falls under Section 5 of the Act where additions, improvements or alternations are carried by the landlord as mentioned therein. Rent Controller has therefore jurisdiction to order periodical increase in fair rent to offset the time gap between

² 2008(6) ALT 210

date of application and date of adjudication taking into consideration normal increase in rental values of buildings during the said period periodical increase over fair rent fixed for every three years provided by rent Controller cannot be found fault and therefore there is no illegality in fixing fair rent and periodical increase on the fair rent fixed by the court.

Therefore, I find no ground to interfere with the finding of the rent controller, since the appellate court reduced the fair rent fixed by the rent controller from 6,500/- to 6,000/-, while confirming the periodical increase. Therefore, the civil revision petition is devoid of merits and liable to be dismissed at the stage of admission.

In the result, the civil revision petition is dismissed. No costs.

Miscellaneous Petitions, if any, pending in the civil revision petition shall stand closed.

M.SATYANARAYANA MURTHY,J

Date:27.06.2017
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